UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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ESTEBAN GONZALEZ,
Plaintiff,

-v-

Warden DENNIS W. HASTY,
Associate Warden JAMES SHERMAN,
Captain SALVATORE LOPRESTI,
Lieutenant ORTIZ,
Lieutenant BARRERE,
Lieutenant WHITE,
Defendants.

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AMENDED COMPLAINT

12 Cv. 5013 (BMC)

Jury Trial Demanded

I. JURISDICTION

1. This action is brought pursuant to 42 U.S.C. § 1983. This court has jurisdiction over Plaintiff Gonzalez's federal claims pursuant to 28 U.S.C. § 1331 and 1343(a)(3). This Court has authority to award costs and attorneys' fees under 42 U.S.C. § 1988.

II. VENUE

2. The Eastern District of New York is an appropriate venue under 28 U.S.C. § 1391(b)(2) because a substantial portion of the events or omissions giving rise to the claims occurred in this district.

III. PARTIES

3. Plaintiff ESTEBAN GONZALEZ is a resident of the Bronx, New York, and was the subject of the unlawful conduct committed by the Defendants herein while incarcerated and held by the Bureau of Prisons (hereinafter "BOP") at the Metropolitan Correctional Center, New York, New York (hereinafter "MCC")and the Metropolitan Detention Center, Brooklyn, New York (hereinafter "MDC") between February 28,

1999 and May 11, 2002.

4. Defendant DENNIS W. HASTY was the Warden at the MCC between February 28, 1999 and July 2001, and was the Warden at the MDC from at least July, 2001 to April, 2002. Defendant HASTY had the ultimate responsibility for administration, maintenance and security of MCC and MDC and the training and supervision of the employees of each facility to carry out the administration, maintenance and security of said facility while serving as Warden. Defendant HASTY had policy-making and supervisory authority with regard to each of these facilities. Defendant HASTY participated directly in Plaintiff Gonzalez's unconstitutional SHU confinement.

5. Defendant JAMES SHERMAN was the Associate Warden at the MDC from at least July, 2001 to April, 2002. Defendant SHERMAN had shared responsibility for administration, maintenance and security of MDC and the training and supervision of the employees of said facility to carry out the administration, maintenance and security of said facility while serving as Associate Warden. Defendant SHERMAN had policy-making and supervisory authority with regard to said facility. Defendant SHERMAN participated directly in Plaintiff Gonzalez's unconstitutional SHU confinement.

6. Defendant SALVATORE LOPRESTI was the Captain at MDC who was directly responsible for the supervision of staff, inmates and conditions in MDC SHU between July, 2001 and May, 2002. Defendant SALVATORE LOPRESTI participated directly in Plaintiff Gonzalez's unconstitutional SHU confinement.

7. Defendants ORTIZ and BARRERE were each assigned as SHU managers and Segregation Review Officials (SROs) at MDC between July 2001 and May 2002. Each was responsible for the management and supervision of staff, inmates and conditions in SHU. Each was responsible for conducting administrative segregation review hearings pertaining to Plaintiff Gonzalez. Defendants ORTIZ and BARRERE participated directly in Plaintiff Gonzalez's unconstitutional SHU confinement.

8. Defendant WHITE was a lieutenant at MDC who among other duties, determined which inmates were to be confined to SHU upon their arrival at MDC. Defendant WHITE participated directly in Plaintiff Gonzalez's unconstitutional SHU

confinement.

9. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were directly aware of, and responsible for, Plaintiff Gonzalez's unlawful SHU confinement and the harsh living conditions to which he was subjected. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE condoned, sanctioned and ratified the unlawful SHU confinement and agreed, confederated, and conspired to keep Plaintiff Gonzalez unlawfully confined in SHU.

10. Each Defendant is being sued in his individual capacity.

IV. FACTUAL ALLEGATIONS

11. The Metropolitan Correctional Center (MCC) is located in New York, New York and the Metropolitan Detention Center (MDC) is located in Brooklyn, New York. Each facility contains a Special Housing Unit ("SHU") for the administrative and disciplinary segregation of properly designated inmates.

12. Plaintiff Gonzalez was housed in the SHU at MCC from February 28, 1999 until July 24, 2001. On July 24, 2001, Plaintiff Gonzalez was transferred from the SHU at MCC to the SHU at MDC where he remained confined until on or about May 11, 2002, at which time he was released to general population at MDC.

13. Conditions in the SHU in both MCC and MDC are virtually identical and extremely punitive. Inmates in the SHU are confined to their cells for 23 hours per day as opposed to six to seven hours per day for inmates in general population.

14. Inmates in general population share the social interaction of eating meals, playing cards and other games and watching television with the other inmates in the housing unit. Inmates in general population can move around the prison facility, use the public phones, visit the law library and go to an open air exercise area with exercise equipment.

15. BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required the

Warden, if consistent with resources and security needs of the unit, to "give an inmate housed in administrative detention the same general privileges given to inmates in general population. This includes, but is not limited to, providing an inmate with the opportunity for participation in an educational program, library services, social services, counseling, religious guidance and recreation." 28 C.F.R. § 541.22(c)(2001).

16. In flagrant violation of this requirement, the inmates confined to SHU are forced to eat in their cells with their meals delivered through a slot in the cell door. Inmates confined to SHU have almost no access to the telephone, and are sharply restricted as to showers, recreation, the law library and to the educational and rehabilitative programs which are available to the inmates in the general population. Exercise for inmates confined in the SHU normally consists of being taken to an small empty cell with no exercise equipment where the inmate is limited to pacing in a small circle. Further, unlike inmates in the general population, inmates in SHU are handcuffed whenever they are removed from their cells and are subjected to more frequent, degrading and unnecessary strip-searches.

17. For most of the time that Plaintiff Gonzalez was confined to SHU he was isolated in solitary cell. At other times, he was forced to share an isolation cell which was designed for one inmate with a second inmate. The cells were approximately 8 feet by 11 feet in size, had a bunk bed and an open toilet. No partition or curtain was available to provide any privacy for Plaintiff Gonzalez while using the toilet; rather, he was forced to urinate and defecate in full view of, and close proximity to, his cellmate.

18. Prolonged confinement under such conditions has been established to have a severely detrimental effect on the mental and physical well-being of the individuals so confined, and had such an effect on Plaintiff Gonzalez. Plaintiff Gonzalez's prolonged confinement in SHU was psychological torture, depriving him of almost all of the opportunities for human contact, variation of daily routine, social, mental and sensory stimulation, exercise and other daily activities which are afforded to other inmates, and which are essential to individual well-being.

19. Moreover, placing two adult men in a single isolation cell while at the same time restricting or prohibiting all other avenues for normal social interaction has well-studied and predictably detrimental effects. Double-celling, particularly in an isolation cell, has been shown to generate tension, stress, paranoia, anger and hostility between cellmates. Moreover, medical and psychological health concerns are addressed for inmates confined to SHU by having staff come to the cell door, forcing the inmate to communicate his confidential concerns within earshot of staff and other prisoners, including his cellmate.

20. Because of the extremely deleterious effects of SHU confinement, BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required that "[a]dministrative detention is to be used only for short periods of time except where an inmate needs long-term protection...or where there are exceptional circumstances." 28 C.F.R. § 541.22(c)(2001).

21. The United Nations Special Rapporteur on Torture has found that using isolation as a punishment for more than 15 days amounts to torture and cruel, inhuman and degrading treatment and has recommended that the use of this type of confinement in excess of 15 days be abolished in all cases. The United Nations General Assembly has called for an "absolute abolition" of this type of confinement. Similarly, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment recommends that isolation only be used as punishment in exceptional cases as a last resort, and for the shortest period of time possible, due to its potentially damaging effects. The recommendations of these and other experts and organizations reflect the overwhelming consensus that prisoner isolation should be used only sparingly, for short amounts of time and under tight controls.

Failure to give Plaintiff Gonzalez proper written notice when placed in SHU.

22. Although BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required that Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE give Plaintiff Gonzalez written notice detailing the reasons for his placement in SHU, ordinarily within 24 hours

of such placement 28 C.F.R. § 541.22(b)(2001), the Defendants failed to give him such written notice.

23. When Plaintiff Gonzalez was transferred to MDC Brooklyn on July 24, 2001, he was placed in Administrative Detention by Defendant WHITE without specific reason or explanation. Upon information and belief, this was done at the direction of defendants HASTY, SHERMAN, and LOPRESTI. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE failed to give Plaintiff Gonzalez meaningful notice of the reasons for or nature of his SHU confinement. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE also failed to afford Plaintiff Gonzalez any opportunity to contest his confinement. Moreover, Defendant LOPRESTI as captain of security at MDC never informed Plaintiff Gonzalez, or arranged for him to be informed by other prison personnel as to the results of the required Captain's Review" if in fact such a review was ever conducted. Upon information and belief, this was done under orders from Defendant HASTY and with the full knowledge and assistance of Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE.

Failure to Hold Required Administrative and Disciplinary Hearings and Failure to allow Plaintiff Gonzalez to attend Required Administrative and Disciplinary Hearings.

24. Although BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE to conduct three-day, seven-day and thirty-day reviews to determine whether continued SHU confinement was required for Plaintiff Gonzalez 28 C.F.R. § 541.22(c)(2001), Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and prison personnel under their supervision continuously failed to properly conduct and/or completely failed to conduct the required hearings throughout the period of Plaintiff Gonzalez's confinement in SHU.

25. Although BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE to allow Plaintiff Gonzalez to attend certain of these reviews, 28 C.F.R. § 541.22(c)(2001), Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE failed to allow Plaintiff

Gonzalez to attend any such hearings.

26. Upon information and belief, Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and prison personnel under their supervision repeatedly filled out, reviewed and/or approved hearing forms to make it falsely appear that they were conducting the required due process SRO hearings and related procedures, when in fact they were not doing so. Moreover, Defendants LOPRESTI, ORTIZ, BARRERE and other prison personnel repeatedly told Plaintiff Gonzalez that they did not have the authority to release him from SHU and that it was Defendant HASTY who was ordering that Plaintiff Gonzalez remain in SHU confinement. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and their agents were aware of this ongoing custom, policy and practice and refused to stop it or to report it to Defendant HASTY'S superiors.

27. Upon information and belief, Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and their agents instead held unauthorized weekly meetings to determine which inmates were to be released from SHU and returned to general population. Plaintiff Gonzalez was not allowed to attend these meetings or to comment on what was said by the participants. This rendered any alleged SRO hearings a meaningless sham in violation of Plaintiff Gonzalez's constitutional rights.

28. Upon information and belief, Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE discussed Plaintiff's SHU confinement on various occasions throughout the period of Plaintiff Gonzalez's confinement in SHU. Plaintiff Gonzalez was not provided with any written statement of evidence relied upon, or factual findings to support any claim of continued need for Plaintiff Gonzalez to be subjected to SHU confinement, nor was Plaintiff Gonzalez allowed any opportunity to be heard at a meaningful time and manner. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were each aware of and sanctioned these unlawful practices.

29. Upon information and belief, Defendant HASTY continuously made it known to Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and other prison personnel that he had a personal vendetta against Plaintiff Gonzalez, that he would not release Plaintiff Gonzalez from SHU under any circumstances and that Defendant HASTY and Plaintiff Gonzalez were to be

"joined at the hip for a long time."

30. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and other prison personnel agreed, confederated and conspired with Defendant HASTY throughout the period of Plaintiff Gonzalez's confinement in SHU to keep Plaintiff Gonzalez unlawfully confined to SHU under harsh conditions and to not report said unlawful confinement to Defendant HASTY's supervisors - the Regional and Central Office Directors or other responsible officials.

31. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were each directly aware that Plaintiff Gonzalez had stated to Defendant HASTY that he (HASTY) was a racist and evil person who favored white inmates who held racist views and were involved in violence against minorities. Upon information and belief, Defendant HASTY had a confederate flag hanging in his office until a staff member filed a formal complaint and Defendant HASTY was ordered by the BOP to remove it.

32. Defendant HASTY kept Plaintiff Gonzalez confined under extremely punitive conditions in SHU at MCC and MDC in part as retaliation for Plaintiff Gonzalez having made these statements to him. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were aware that Defendant HASTY was retaliating against Plaintiff Gonzalez for this legally protected speech.

33. Defendants HASTY repeatedly ordered Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and others to make Plaintiff's living conditions harsher than other similarly situated inmates by increasing and maintaining Plaintiff Gonzalez's isolation and denying him access to which he was entitled to outdoor recreation, sunlight, and fresh air, among other things. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were aware of Defendant HASTY's orders and continuously aided and abetted Defendant HASTY in effectuating those unlawful orders and practices.

34. Upon information and belief, Defendant HASTY repeatedly directed Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and other prison personnel not to provide Plaintiff Gonzalez with administrative and disciplinary

hearings in order to obstruct, impede and deny Plaintiff Gonzalez's access to exculpatory evidence contained in the SIS investigation, the psychological assessments and elsewhere and thereby prevented Plaintiff Gonzalez from using that evidence to defend himself. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were aware of Defendant HASTY's unlawful scheme and plan, each Defendant condoned, sanctioned and ratified Defendant HASTY's illegal policies and practices toward Plaintiff Gonzalez, and each Defendant continuously took steps to implement and effectuate those illegal policies and practices.

35. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and other prison personnel were directly aware of, and aided and abetted Defendant HASTY's ongoing retaliation against Plaintiff Gonzalez. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were aware that Defendant Hasty had kept Plaintiff Gonzalez unlawfully confined in SHU at MCC. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were aware that Defendant HASTY was continuing to keep Plaintiff Gonzalez unlawfully confined in SHU at MDC under illegally harsh conditions, and aided and abetted him in doing so. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were aware that Defendant HASTY was continuing said illegal confinement without the required procedures - including but not limited to administrative and/or disciplinary hearings with meaningful notice to Plaintiff Gonzalez and an opportunity for him to be heard, copies of findings of fact and evidence upon which the findings relied, or a copy of the decision of the SRO in writing in order to enable Plaintiff Gonzalez to contest his continued need for SHU confinement. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE repeatedly condoned, sanctioned, ratified and aided and abetted these unlawful actions and repeatedly failed to prevent these unlawful actions or to report them to Defendant HASTY's supervisors in the Regional or Central office.

36. For part of Plaintiff Gonzalez's SHU confinement, Defendant HASTY directed and condoned Plaintiff Gonzalez's confinement in a separate section of the SHU called 10-South which was even more isolating and punitive than the regular SHU. Defendant HASTY did so in order to increase and continue his abuse and unlawful punishment of Plaintiff Gonzalez.

Failure to comply with the findings of the psychological assessments.

37. BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and their agents to conduct monthly psychological assessments of Plaintiff Gonzalez, including a personal interview, for as long as he was confined to SHU, and to provide a written report to the SRO addressing the Plaintiff Gonzalez's adjustment to surroundings and any threat which the inmate poses to himself, staff or other inmates, 28 C.F.R. § 541.22(c)(2001).

38. Although the psychological assessments which were performed indicated that Plaintiff Gonzalez was not in need of further SHU confinement, Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and their agents repeatedly ignored these reports and instead continued to confine Plaintiff Gonzalez in SHU without any of the required hearings or reviews. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE did so in order to allow Defendant HASTY to continue to unlawfully abuse Plaintiff Gonzalez. Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE also repeatedly failed to make Plaintiff Gonzalez aware of these assessments and thereby prevented him from using these assessments to challenge his continued SHU confinement.

39. BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and their agents to release Plaintiff Gonzalez from SHU confinement as soon as the reason for that confinement ceased to exist. 28 C.F.R. § 541.22(c)(2001). The refusal of Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE to release Plaintiff Gonzalez from SHU despite the repeatedly positive psychological reports, as well as their continuous refusal to provide Plaintiff Gonzalez with the required periodic hearings and reviews constituted a continuing violation of Plaintiff Gonzalez's constitutional rights which did not end until Plaintiff Gonzalez was released from SHU shortly after Defendant HASTY retired. Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE knew that Plaintiff Gonzalez's prolonged SHU confinement was not supported by the evidence and violated Plaintiff Gonzalez's constitutional

rights by condoning, sanctioning, ratifying and aiding and abetting Defendant HASTY'S unlawful retaliatory actions.

Illegal transfer of Plaintiff Gonzalez from MCC SHU to MDC SHU

40. When Defendant HASTY was about to be reassigned from warden at MCC to warden at MDC, he ordered that Plaintiff Gonzalez be transferred from the SHU at MCC to the SHU at MDC in order to enable Defendant HASTY to continue to exercise control over and abuse Plaintiff Gonzalez. Upon information and belief, Defendants SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE and their agents were aware of the illegal purpose of this transfer and aided and abetted Defendant HASTY in effectuating it.

41. Shortly before the transfer of Plaintiff Gonzalez from the MCC SHU to the MDC SHU, an officer named Aponte stated to Plaintiff Gonzalez, "you're going to MDC to be with your friend Warden Hasty." Aponte said this with a sarcastic smile, knowing that the purpose of the transfer was to enable Defendant HASTY to continue to exercise control over and abuse Plaintiff Gonzalez.

42. Upon information and belief, Defendant LOPRESTI, as captain of security at MDC, had the authority to refuse to accept Plaintiff Gonzalez's transfer from MCC SHU to the MDC SHU. Upon information and belief, Defendant LOPRESTI accepted that transfer with the knowledge that it was being made to enable Defendant HASTY to continue to exercise control over and abuse Plaintiff Gonzalez.

Refusal to transfer Plaintiff Gonzalez to FCI Otisville

43. On September 14, 1999, Judge Whitman Knapp entered an order recommending that Plaintiff Gonzalez be transferred from MCC to another federal facility, FCI Otisville. The government consented to this transfer. Defendant HASTY, however, refused to approve this transfer in order to enable Defendant HASTY to continue to exercise control over and abuse Plaintiff Gonzalez. Nevertheless, Defendant HASTY was willing to order defendant Gonzalez's transfer to another federal facility - MDC Brooklyn - in order to enable Defendant Hasty to continue to exercise control over and abuse Plaintiff Gonzalez.

44. When Associate Warden Charles DeRosa attempted to have Plaintiff Gonzalez transferred to Otisiville without Defendant HASTY'S knowledge, Defendant HASTY learned of the move and stopped it because Otisville prison officials had assured DeRosa that Plaintiff Gonzalez would be released to general population if he were transferred to that facility. DeRosa came personally to Plaintiff Gonzalez in SHU to tell him that Defendant HASTY had found out about the attempted transfer, was angry and had stopped the transfer. DeRosa apologized to Plaintiff Gonzalez and made it clear that Defendant HASTY was retaliating because of Plaintiff Gonzalez's statements to Hasty.

Failure to Provide Plaintiff Gonzalez with notices and documentation pertaining to his illegal SHU confinement.

45. BOP regulations in effect during the entire period of Plaintiff Gonzalez's SHU confinement required Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ and BARRERE and their agents to provide Plaintiff Gonzalez with written copies of the SRO's decisions and the bases for its findings. 28 C.F.R. § 541.22(c)(2001). In addition to repeatedly failing to provide Plaintiff Gonzalez with the favorable psychological assessments, Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ and BARRERE also failed to provide him with any notice, written or oral, of the purported Captain's review which was supposed to have taken place following Plaintiff Gonzalez's transfer from the MCC SHU to the MDC SHU. The Defendants also continuously and repeatedly throughout the term of Plaintiff Gonzalez's SHU confinement failed to provide him with any other documents setting forth the evidence relied upon to conclude that there was a continuing need for SHU confinement.

46. During their security rounds of the SHU, Defendants LOPRESTI, ORTIZ and BARRERE repeatedly informed Plaintiff Gonzalez that they were working to get him out of SHU, and agreed that Plaintiff Gonzalez should not continue to be confined in SHU.

47. Upon information and belief, the documentation for any alleged administrative detention hearing which was filled out by SRO Lieutenants, Defendants ORTIZ and BARRERE, contained no facts or details supporting Plaintiff Gonzalez's continued need for SHU confinement, which is consistent with

their repeated views that Plaintiff Gonzalez did not belong in SHU.

48. On or about May 11, 2002, Plaintiff Gonzalez was instructed by Defendant ORTIZ to pack his belongings because he was being released from SHU. Defendant ORTIZ informed Plaintiff Gonzalez that he was being released from SHU because Defendant HASTY had been forced to retire by the BOP because of the numerous complaints of abuse of detainees at MDC by staff under Defendant HASTY.

49. On April 29, 2003, Glenn Fine, the Inspector General of the Department of Justice issued a report documenting the systematic abuse of certain inmates at MDC during the period that Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE were working at MDC and Plaintiff Gonzalez was confined in the SHU at MDC.

50. Defendant LOPRESTI was indicted, convicted and imprisoned in the United States District Court for the Eastern District of New York for violating the rights of prisoners in his custody at the Metropolitan Detention Center and other crimes. United States v. Salvatore LoPresti, 07 Cr. 273 (CBA)(E.D.N.Y.).

51. Upon information and belief, Defendants HASTY, SHERMAN, LOPRESTI, ORTIZ, BARRERE and WHITE all have extensive records of complaints, reprimands and sanctions and legal actions for abuse of inmates and other misconduct.

EXHAUSTION

52. On August 8, 2002 Plaintiff exhausted his administrative remedies.

V. CLAIMS FOR RELIEF

53. Plaintiff Gonzalez re-alleges paragraph 1 thru 52 as though fully set forth in this section.

FIRST CAUSE OF ACTION

Violation of the Guarantee of Due Process of Law
Fifth Amendment

54. Plaintiff Gonzalez's confinement in SHU under conditions of extreme isolation and deprivation for 1163 days without required notices, hearings and other procedural protections and without required disclosure of documentary evidence imposed a significant and atypical hardship on Plaintiff Gonzalez in relation to the ordinary incidents of prison life, thereby depriving him of a protected liberty interest in violation of his rights under the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION

Violation of the Prohibition against Cruel and Unusual Punishment
Eighth Amendment

55. Plaintiff Gonzalez's confinement in SHU under conditions of extreme isolation and deprivation for 1163 days violated his rights under the Eighth Amendment's prohibition against cruel and unusual punishment.

THIRD CAUSE OF ACTION

Violation of the Guarantee of Free Speech
First Amendment

56. Plaintiff Gonzalez's confinement in SHU under conditions of extreme isolation and deprivation for 1163 days in retaliation for statements which he had made concerning Defendant HASTY violated his rights to free speech under the First Amendment.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Gonzalez respectfully requests that the Court:

1. Declare that the acts and omissions described herein violated Plaintiff'S rights under the Constitution and laws of the United States;

2. Award compensatory and punitive damages to Plaintiff Gonzalez as allowed by law against each Defendant, jointly and severally;

3. Award Plaintiff Gonzalez reasonable attorneys' fees and costs under 42 U.S.C. § 1988; and

4. Grant such other relief as to the Court seems necessary and proper.

Dated: January 16, 2013
New York, New York

_______/s/_________________________

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